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FAX TRANSMISSION

DATE: April 5, 2005 **CONFIDENTIAL**
TO: Dr Jasmine Chambers
COMPANY: USPTO **Director, Groups 1630/1640**
FAX NO: 703-872-9306
FROM: RASHIDA A. KARMALI
No. of Pages: 6
MESSAGE: see attached

Could not transmit at Jasmine.Chambers@uspto.gov

Thank you for your assistance.

Rashida Karmali

U.S. PATENT & TRADEMARK OFFICE
APR 05 2005

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April 4, 2005

Jasemine.Chambers@uspto.gov

Dr. Jasemine C. Chambers, DIRECTOR GROUPs 1630 and 1640
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application Serial No. 09/303,315
Applicant: Eugene S. Pearlman
Title: Algorithmic Testing IN Laboratory Medicine
Our Ref. 104.002

Dear Dr Chambers:

I am writing to you at the advice of Dr. John Doll, whom I had copied on my letter to New York Senators Schumer and Clinton and Rep. Nadler on December 13, 2004. I sent electronic copies of the letters to appropriate Examiners. I first contacted them about specific matters in prosecutions they were in charge of by telephone and failed to obtain their assistance. Therefore, the examiners were cognizant of appropriate references in the letters written to the Government Representatives. See attached letter to Senator Clinton.

As a next step I intend to submit to the Senators, specific examples and explain in more detail the nature of problems we have encountered at the PTO.

I did not send an electronic copy of the December 13, 2004, to Examiners L. Clow and M. Moran in charge of the above referenced application. However, I intend to discuss this case also with the Senators' aides. As you will notice, this is not the first time I have sought help from one of the Group Directors in relation to this invention. See attached letter to Dr John Doll dated 11/4/2003.

After the letter to Dr Doll, I came to the Patent Office and had an interview with Examiner Lori Clow and Supervisor Marjorie Moran. During the interview we discussed the entire file wrapper and the mistakes that were made when a previous Examiner examined the case. At the conclusion of the interview, Examiner Clow, her supervisor Dr. Marjorie Moran and I came to an agreement

April 4, 2005

as to how to resolve any outstanding issues.

I prepared a draft response and asked Examiner Clow to review it. She went through my response carefully and recommended changes in the draft amendment. However, yet another rejection was issued. The rejection that followed could have been resolved by an Examiner's Amendment, but was not. So the fourth RCE was filed- the third under Examiner Clow. I have now received another Action which clearly demonstrates the repeated pattern of piecemeal examination conducted in the case.

On behalf of my client, CENTRALIZED LABORATORIES SERVICES, I would appreciate it greatly if you would investigate the above referenced case. Proper procedure and care have not been followed in the prosecution of the above application. This has resulted in unnecessary costs and delay for my client in developing the invention.

In the meantime I will discuss the case with the Senators' Aides. I will refer them to you should they decide to contact the Patent Office.

Thank you for your kind attention to this matter

Sincerely,

/Rashida A. Karmali/

Rashida A. Karmali

2 electronic attachments

Cc: Mr. Marc S. Wolfert, CEO and Senior Vice President (First Class Mail)

Lori.Clow@uspto.gov

Marjorie.Moran@uspto.gov

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December 13, 2004

The Honorable Hillary Clinton
U. S. Senate
476 Russell Senate Building
Washington, D.C. 20510

Dear Senator Clinton:

On October 31, 2003, I wrote to you, to bring to your attention H.R. 1561, the "United States Patent and Trademark Fee Modernization Act of 2003," and to express my full support for its enactment as reported out of the House Judiciary Committee.

I thank you for your support of H.R. 1561. As an intellectual property attorney concerned about the future of our nation's patent and trademark systems, I wanted to let you know how critical it was that the problems at the Patent & Trademark Office ("PTO") be corrected. The Office was in dire need of increased funding to carry out its Constitutional mandate to help America's innovators and I supported the fee increase needed for this purpose. Thanks to your support, the PTO has new and effective leadership, funding and resources to support its Strategic Plan to enhance the quality of Examination of patents and speed up their issuance.

However, the PTO lacks an effective system to enable Registered Patent Agents and Attorneys to file complaints against poor quality staff and services. Much progress has been made in the past year in training Examiners and recruiting more of them. However, one important factor has not been addressed- the abuses of the long term career Examiners who find it difficult to accept the concept that they are there to provide competent services to the client- the inventors who file who pay fees to PTO for filing their patents.

Even though I run a solo practice and the volume of my patent prosecution is relatively small, I can share with you some serious consequences of poor supervision and oversight by examiners and their supervisors. One examiner and her supervisor, ignored numerous inquiries and telephone messages from my firm regarding a pending applications for twelve months, the PTO declared the application abandoned, and in the meantime, the applicant, a start-up biotechnology lost all financing from a pharma partner, the latter having concluded that the invention was not patentable. It was only when this examiner had a new supervisor, and I threatened to contact your office that the case was tracked and reinstated. However, the biotech company is on the verge of closing. Like this, there are numerous examples from my firm and other practitioners.

Last week, I had an experienced examiner return an amendment six months after its submission for failure to use a double bracket instead of a single. In fact the single bracket under the rules was correct since the statement had more than five words. However, the applicant will lose twelve months before getting a decision on his patent because the applicant will have to

submit a response to the rejection to explain that the use of single bracket was correct. There would be a further delay of six months before the examiner looks at the file. When I called the examiner's supervisor and complained about this and other related cases where the examiner had actually changed the date to indicate that the applicant had filed the response had been filed one month earlier (the limit during which to return a paper having informal mistakes), the Supervisor hung up!

It is my opinion that there exists an "Examiner's Wall" at the PTO and there is no mechanism to complain against the abuses practiced by the Examiners. As a New Yorker, I compare the situation to the "Blue Wall at NYPD" which led to the formation of an Internal Review Board. In any event, it is very important that the General Accounting Office investigate this and produce a Report that will document scientifically the damage caused by PTO's staff to businesses that rely on developing patented technologies. I seek your assistance because my clients have asked me to, and I owe a duty of care to my clients and want to ensure that get proper service for the fees they pay to the PTO.

Thank you for your consideration.

Sincerely,

Rashida A. Karmali

RAK: ms

e-Cc: Jon Dudas, John Doll

e-Bcc: appropriate Examiners

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November 4, 2003

VIA CERTIFIED FIRST CLASS MAIL & FACSIMILE(w/o attachment)

Dr. John Doll, DIRECTOR GROUP 1600
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application Serial No. 09/303,315
Applicant: Eugene S. Pearlman
Title: Algorithmic Testing IN Laboratory Medicine
Our Ref. 104.002

Dear Dr Doll:

I am enclosing a Response and a Request for Continuing Examination (RCE)I prepared and filed in the U.S. Patent and Trademark Office in the above referenced case.

On behalf of my client, CENTRALIZED LABORATORIES SERVICES and HIP of New York, I would appreciate it greatly if you would investigate the above referenced case. It is our opinion that both Examiner Lori Clow and her Supervisor, Michael Woodward, have failed in their duty to follow proper Examination Procedures. We believe that your intervention will be greatly helpful since proper procedure and care have not been followed.

Thank you for your kind attention to this matter

Sincerely,

Rashida A. Karmali

Cc: Mr. Marc S. Wolfert, CEO and Senior Vice President